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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**  
12

13  
14 In the Matter of the Accusation Against:

Case No. 2010-248

15 **NICOLE SHARON ALLEN**  
1485 Fieldshire Way  
16 Morgan Hill, CA 95037

**A C C U S A T I O N**

17 **Registered Nurse License No. RN 504969**

18 Respondent.  
19

20 Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the Interim  
23 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
24 Affairs.

25 **License History**

26 2. On or about September 30, 1994, the Board issued Registered Nurse License Number  
27 RN 504969 ("license") to Nicole Sharon Allen ("Respondent"). The license was in full force and  
28

1 effect at the time relevant to the charges brought herein and expired on October 31, 2006, and has  
2 not been renewed.

### 3 JURISDICTION

4 3. This Accusation is brought before the Board under the authority of the following  
5 laws. All section references are to the Business and Professions Code ("Code"), unless otherwise  
6 indicated.

7 4. Code section 2750 provides, in pertinent part, that the Board may discipline any  
8 licensee, including a licensee holding a temporary or an inactive license, for any reason provided  
9 in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

10 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
11 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
12 to render a decision imposing discipline on the license.

13 6. Code section 118, subdivision (b), provides that the suspension, expiration, surrender,  
14 or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
15 disciplinary action during the period within which the license may be renewed, restored, reissued  
16 or reinstated.

### 17 STATUTORY PROVISIONS

18 7. Code section 2761 states, in pertinent part:

19 The board may take disciplinary action against a certified or  
20 licensed nurse or deny an application for a certificate or license for any of  
the following:

21 (a) Unprofessional conduct, . . .

22 (f) Conviction of a felony or of any offense substantially related  
23 to the qualifications, functions, and duties of a registered nurse, in which  
event the record of the conviction shall be conclusive evidence thereof.

24 8. Code section 2762 states, in pertinent part:

25 In addition to other acts constituting unprofessional conduct within  
26 the meaning of this chapter [the Nursing Practice Act], it is  
unprofessional conduct for a person licensed under this chapter to do any  
27 of the following:

28 (b) Use any controlled substance as defined in Division 10  
(commencing with Section 11000) of the Health and Safety Code, or any

1 dangerous drug or dangerous device as defined in Section 4022, or  
2 alcoholic beverages, to an extent or in a manner dangerous or injurious to  
3 himself or herself, any other person, or the public or the extent that such  
4 use impairs his or her ability to conduct with safety to the public the  
5 practice authorized by his or her license.

6 (c) Be convicted of a criminal offense involving the prescription,  
7 consumption, or self administration of any of the substances described in  
8 subdivisions (a) and (b) of this section, or the possession of, or  
9 falsification of a record pertaining to, the substances described in  
10 subdivision (a) of this section, in which event the record of the conviction  
11 is conclusive evidence thereof.

### 12 COST RECOVERY

13 9. Code section 125.3 provides, in pertinent part, that the Board may request the  
14 administrative law judge to direct a licentiate found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case.

### 17 FIRST CAUSE FOR DISCIPLINE

#### 18 (Criminal Conviction)

19 10. Respondent has subjected her license to disciplinary action under Code section 2761,  
20 subdivision (f), in that on or about November 12, 2008, in the Superior Court of California,  
21 County of Merced, in the case entitled, *People of the State of California v. Nicole Sharon Allen*  
22 (Super. Ct. Merced County, 2008, Case No. LB88274), Respondent was convicted on her plea of  
23 no contest of violating Vehicle Code section 23152, subdivision (b) (Drive While Having .08%  
24 Blood Alcohol Content, and More), a misdemeanor. The circumstances of the crime are that on  
25 or about May 1, 2008, Respondent was driving a vehicle on eastbound Highway 152 in Merced,  
26 California. Witnesses observed Respondent's vehicle weaving in and out of the lanes; it  
27 ultimately drove off the highway, across the shoulder, over an embankment, and finally  
28 overturned in a ditch. The arresting officer observed that Respondent's pupils were dilated, her  
speech and heart rate were slow, she was lethargic, and could not stand up. The officer noted  
intravenous drug scars on her arms. Respondent admitted to drinking alcohol, and to using  
heroin, methadone, Xanax and Seraquil. Respondent's blood alcohol after the accident measured  
.153% after the accident.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction Involving the Consumption of Alcohol)**

3 11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),  
4 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (c), in  
5 that Respondent was convicted of a crime involving the consumption of an alcoholic beverage, as  
6 set forth in paragraph 10, above.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Use an Alcoholic Beverage to the Extent or in a  
9 Manner Dangerous or Injurious to Herself or Others)**

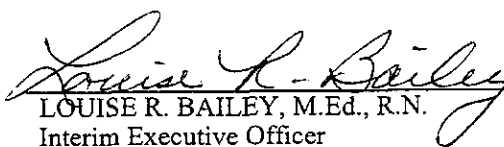
10 12. Respondent is subject to disciplinary action under Code section 2762, subdivision (a),  
11 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in  
12 that on or about May 1, 2008, Respondent consumed alcoholic beverages to an extent or in a  
13 manner dangerous or injurious to herself or others, as set forth paragraph 10, above.

14 **PRAAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board of Registered Nursing issue a decision:

- 17 1. Revoking or suspending Registered Nurse License Number RN 504969 issued to  
18 Nicole Sharon Allen;  
19 2. Ordering Nicole Sharon Allen to pay the Board the reasonable costs of the  
20 investigation and enforcement of this case, pursuant to Code section 125.3; and,  
21 3. Taking such other and further action as deemed necessary and proper.

22  
23 DATED: 10/21/09

  
LOUISE R. BAILEY, M.Ed., R.N.  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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